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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/397,320	03/02/95	LANGLEY	K A-169CIP-C3

18N2/1010

BELL, BOYD, & LLOYD
INTELLECTUAL PROPERTY DEPARTMENT
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WASHINGTON DC 20003-4533

EXAMINER

SCHEINER, L

ART UNIT

PAPER NUMBER

1818

41

DATE MAILED:

10/10/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☐ Responsive to communication(s) filed on 6/30/97 & 8/19/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 40, 41, 43, 44 & 46-49 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 40, 41, 43, 44 & 46-49 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

Art Unit: 1813

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

The amendment filed June 30, 1997 under 37 CFR 1.116 has been entered

Claims 40, 41, 43, 44 and 46-49 are pending in this application.

The finality of the rejection of the last Office action is withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 40, 41, 43, 44 and 46-49 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Stetler-Stevenson et al. (U.S. Patent No. 5,595,885).

Stetler-Stevenson et al. teach the cloning of a cDNA which encodes TIMP-2 from a melanoma cell. Amino acids 1-194 according to Figure 2 of the instant application are clearly disclosed in Figure 8 of Stetler-Stevenson et al. The cDNA clone which encodes the amino acid sequence of the TIMP-2 protein may be expressed in any suitable expression system, either prokaryotic or eukaryotic.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laurie Scheiner whose telephone number is (703) 308-1122.

Papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers should be faxed to Group 1800 via the PTO Fax Center located in Crystal

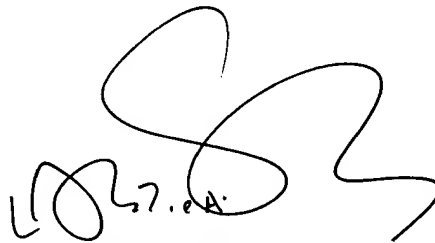
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Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM 1 Fax Center numbers are (703) 305-3014 or (703) 308-4242.

Laurie Scheiner/LAS
October 7, 1997



LAURIE SCHEINER
PRIMARY EXAMINER